

**STATE BOARD OF EDUCATION
ADMINISTRATIVE CODE
COMMENT/RESPONSE FORM**

This comment and response form contains comments from the October 5, 2016, meeting of the State Board of Education when the draft regulations were considered at First Discussion Level.

Topic:	Interdistrict Public School Choice	Meeting Date:	November 2, 2016
Code Citation:	N.J.A.C. 6A:12	Level:	Proposal
Division:	Legal and External Affairs	Completed by:	Office of Interdistrict Choice and Nonpublic Schools

Summary of Comments and Agency Responses:

The following is a summary of the comments received from State Board of Education members and the Department's responses. Each commenter is identified at the end of the comment by a letter that corresponds to the following list:

- A. Mark W. Biedron, President
State Board of Education
 - B. Joseph Fisicaro, Vice President
State Board of Education
 - C. Dr. Ronald Butcher, Member
State Board of Education
 - D. Jack Fornaro, Member
State Board of Education
 - E. Edith Fulton, Member
State Board of Education
 - F. Dr. Ernest Lepore, Member
State Board of Education
 - G. Andrew Mulvihill, Member
State Board of Education
1. **COMMENT:** The commenter asked if one school district could be considered both a sending district and a choice district under the Interdistrict Public School Choice program. (F)
- RESPONSE:** Yes, a school district that participates in the choice program can receive choice students and send resident students to other choice districts at the same time.
2. **COMMENT:** The commenters asked if the Department has information on why parents choose to send their children to school districts participating in the choice program. (F, D)

RESPONSE: The Department conducts an annual survey of parents whose children participate in the choice program. Parents ranked the following as the most important reasons why their child is participating in the choice program: (1) academics (higher school performance and a more rigorous or diverse academic program); (2) school climate and culture; and (3) participation in a specialized program not available in child's resident district.

3. **COMMENT:** The commenter asked if the Department works with certain sending districts to remedy issues that cause students to leave and attend school in a choice district. **(D)**

RESPONSE: Parents are participating in the choice program because they want their child to attend a school that best serves his or her individual needs, whether it is a school with higher academic performance, a specialized program, or smaller class sizes. The Department collects survey data on why parents/students participate in the program and how satisfied they are with the program, but not the specific reasons for leaving their resident district. The Department is committed to supporting all school districts and remedying issues that arise.

4. **COMMENT:** The commenter asked if students who participate in the choice program decide to return to their sending districts. **(D)**

RESPONSE: Nearly 85 percent of participating students remain in choice districts for as long as they are eligible.

5. **COMMENT:** The commenter asked if a student who attends school in a choice district that terminates at eighth grade (i.e., K-8) would attend high school in his or her sending district or in the school district that receives the choice district's high school students. **(B)**

RESPONSE: A student in the scenario provided by the commenter would be required to return to his or her sending district for high school unless the receiving school district for the K-8 school district also participates in the choice program and accepts the student. The Department allows receiving choice districts that receive students from school districts that terminate at eighth grade to provide enrollment preference to choice students and to accept them even if the school district has reached its choice enrollment limit.

6. **COMMENT:** The commenter asked whether special education students are eligible to participate in the choice program. **(D)**

RESPONSE: Yes, students who are classified for special education services who have an individualized education program (IEP) can participate in the choice program. In some instances, a choice district may not be able to fulfill the requirements of a student's IEP and, therefore, the choice district may decline the student's application. According to N.J.S.A. 18A:36B-20.b: "A choice district may evaluate a prospective student on the student's interest in the program offered by a designated school. The district shall not discriminate in its admission policies or practices on the basis of athletic ability, intellectual aptitude, English language proficiency, status as a handicapped person, or any basis prohibited by State or federal law."

7. **COMMENT:** The commenter asked whether the sending district or the choice district is responsible for transporting a choice student. **(E)**

RESPONSE: The sending district is responsible for transporting a choice student. Pursuant to student transportation rules at N.J.A.C. 6A:27-4.1 and 4.2, choice students in kindergarten through grade eight are eligible for transportation if they live more than two miles but no more than 20 miles from the choice school. High school students in the choice program have to live more than 2.5 miles but no more than 20 miles from the choice school to be eligible for transportation. If the cost to transport eligible choice students exceeds the annual maximum limit, currently \$884 per student, the sending district can provide aid in lieu of transportation to the parent(s) or guardian(s) of choice students. If a sending district provides aid in lieu of transportation, the parent(s) or guardian(s) is responsible for transporting the choice student(s) to and from the choice school.

8. **COMMENT:** The commenter asked if high schools participate in the choice program and, if so, which school district is responsible for transporting student athletes after school hours (for example, to practice or athletic events and then to their homes). **(E)**

RESPONSE: The choice program includes high school participants. Transportation for school choice students is limited to mandated services for eligible students, which includes transportation only to and from school according to the school calendar. Transportation for school-related activities (for example, to practices or athletic events and then to their homes) is a courtesy service provided at the discretion of the district board of education.

9. **COMMENT:** The commenter asked if the nearly \$53.7 million appropriated for the choice program covers all costs for educating choice students since it amounts to approximately \$10,300 per student, which is far less than the per pupil cost in most school districts. **(C)**

RESPONSE: The \$53.7 million appropriated for the choice program is not the only funding available to choice districts to cover all costs for educating choice students. Choice aid is calculated based on the per pupil local share of the adequacy budget (local fair share) – the State’s estimate of the funding level for the school district to provide a thorough and efficient education. Choice districts receive State formula aid for students who are enrolled in the program just like any other student in the school district, while choice aid is provided to take the place of the local tax levy for each choice student. Since choice students are included in each choice district’s enrollment for the State aid calculation, choice districts also receive additional formula State aid for choice students. Transportation is the only exception – the student’s resident district provides the transportation and receives the corresponding transportation State aid.

10. **COMMENT:** The commenter asked for the per pupil cost for choice students based on a sample of 5 to 10 percent of choice districts. **(C)**

RESPONSE: The following chart provides 11 percent (15) of the 131 operating choice districts, which account for 50 percent of the choice program’s total funding. The chart shows the average per pupil K-12 State aid amount the choice district received in FY 2016, and the choice aid amount provided for each choice student to offset the local levy portion of the choice districts’ costs. According to the formula, choice districts receive the per pupil choice aid amount shown below for each choice student. The K-12 State aid per pupil shown below is only an estimated average. There are many factors that go into State aid calculations, including each student’s characteristics, in addition to other elements of the formula that are applied to arrive at the total aid provided to the choice

district. So while the Department cannot say specifically how much State formula aid a choice district receives specifically for a choice student, the figures below represent the average per pupil State aid each choice district receives.

County	Choice District Name	FY 2016 K-12 State Aid Per Pupil *	FY 2016 Choice Aid Per Pupil
ATLANTIC	HAMMONTON TOWN	\$4,824	\$9,821
BERGEN	ENGLEWOOD CITY	\$1,053	\$16,569
CAMDEN	AUDUBON BORO	\$5,018	\$8,952
CAPE MAY	OCEAN CITY	\$595	\$13,825
CUMBERLAND	CUMBERLAND REGIONAL	\$8,456	\$5,908
HUDSON	HOBOKEN CITY	\$997	\$15,939
HUNTERDON	SOUTH HUNTERDON REGIONAL	\$607	\$13,790
MONMOUTH	DEAL BORO	\$1,238	\$12,573
MONMOUTH	UPPER FREEHOLD REGIONAL	\$2,436	\$10,970
MORRIS	MINE HILL TWP	\$3,164	\$11,734
MORRIS	MORRIS HILLS REGIONAL	\$1,947	\$13,794
OCEAN	CENTRAL REGIONAL	\$750	\$15,023
PASSAIC	PASSAIC CO MANCHESTER REG	\$5,374	\$13,041
SALEM	PITTSBURG TWP	\$7,976	\$6,635
UNION	KENILWORTH BORO	\$1,526	\$13,413

* Excludes transportation aid and adjustment aid.

11. **COMMENT:** The commenter asked if the \$53.7 million State appropriation limits the number of students who can participate and what would need to be done to allow more students to participate in the choice program. **(B)**

RESPONSE: The funding for the choice program is determined based upon the projected number of students who will be participating in the program for the upcoming school year, less an adjustment for overprojection of participation in the prior school year. The amount provided per participating student is outlined in the School Funding Reform Act of 2008 and N.J.S.A.18A:36B, so any modification would require legislative action.

12. **COMMENT:** The commenter asked for the number of choice students from a sampling of sending districts and choice districts. **(E)**

RESPONSE: The following choice districts account for 34.8 percent of all choice enrollment.

County	Choice District Name	October 2015 Choice Enrollment	Percent of Total Program Enrollment
BERGEN	ENGLEWOOD CITY	261	5.1%
ATLANTIC	FOLSOM BORO	208	4.1%
CAPE MAY	OCEAN CITY	192	3.8%
SALEM	PITTSBGROVE TWP	191	3.7%
ATLANTIC	HAMMONTON TOWN	185	3.6%
HUDSON	HOBOKEN CITY	166	3.3%
UNION	KENILWORTH BORO	156	3.1%
CUMBERLAND	CUMBERLAND REGIONAL	145	2.8%
MONMOUTH	DEAL BORO	142	2.8%
MORRIS	MORRIS HILLS REGIONAL	128	2.5%
SUBTOTAL		1,774	34.8%

The following school districts send the most students to choice districts and account for more than 30 percent of total choice enrollment.

Sending County	Sending District Name	October 2015 Number of Choice Students Sent	Percent of Total Choice Enrollment
CAMDEN	WINSLOW TWP	493	10%
HUDSON	JERSEY CITY	149	3%
MORRIS	DOVER TOWN	118	2%
CAMDEN	CAMDEN CITY	109	2%
MERCER	TRENTON CITY	109	2%
CUMBERLAND	VINELAND CITY	108	2%
PASSAIC	PATERSON CITY	105	2%
SUSSEX	HOPATCONG	100	2%
CAPE MAY	MIDDLE TWP	98	2%
CAMDEN	BLACK HORSE PIKE REG	95	2%
CUMBERLAND	MILLVILLE CITY	86	2%
SUBTOTAL		1,569	31%

13. **COMMENT:** The commenter asked how many choice students come from sending districts that are former Abbott school districts. The commenter also asked if all per pupil state aid provided to former Abbott school districts follows the students to choice districts. **(B)**

RESPONSE: Former Abbott school districts send 1,141 (22.4 percent) students to choice districts. The school funding formula determines State aid for all school districts based in large part on a school district's enrollment. A student who enrolls in a choice district program is no longer counted in the sending district's enrollment – he or she is counted in the choice district's enrollment for the calculation of State aid. As a result, the choice district receives formula aid for each choice student in the same manner it receives formula aid for its resident students.

14. **COMMENT:** The commenter asked if choice districts and sending districts take into account the financial nuances of the choice program and budget accordingly. **(G)**

RESPONSE: Yes. The application deadlines and requirements to provide written notification to sending districts of a choice student's enrollment are designed to give both the choice and sending school districts information about choice participation for use in budgeting and program planning. Choice districts receive notice of their choice aid and a choice student's enrollment is captured in the choice districts' formula aid calculation in annual State aid notices. When State aid notices are distributed, school districts are required to craft a balanced budget that accounts for projected enrollments.

15. **COMMENT:** The commenters suggested the State Board review the readoption of Chapter 12 at Proposal Level during the November meeting instead of at Second Discussion but still provide the public an opportunity to testify on the proposed readoption during public testimony. **(A, B)**

RESPONSE: The Department welcomes the opportunity to proceed directly to Proposal Level while providing an opportunity for public testimony on the same day.



State of New Jersey

DEPARTMENT OF EDUCATION

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

Proposal Level
November 2, 2016

KIMBERLEY HARRINGTON
Acting Commissioner

TO: Members, State Board of Education

FROM: Kimberley Harrington
Acting Commissioner

SUBJECT: N.J.A.C. 6A:12, Interdistrict Public School Choice

**REASON
FOR ACTION:** Readoption

AUTHORITY: N.J.S.A. 18A:36B-14 through 24

SUNSET DATE: December 21, 2016

Summary

The Department of Education (Department) proposes to readopt N.J.A.C. 6A:12, Interdistrict Public School Choice, without amendments. The chapter is designed to assist school districts interested in applying to and implementing the Interdistrict Public School Choice program (choice program).

The choice program was originally established by the State Board of Education in October 1999 as a five-year pilot. The rules were amended in December 2000 to conform to N.J.S.A.18A:36B-1 et seq., the Interdistrict Public School Program Act of 1999, which became effective January 18, 2000, and expired on June 30, 2005. The program continued under the rules that were amended again in December 2004. The chapter was readopted without amendments in 2009 with an expiration date of December 21, 2016. The Interdistrict Public School Choice Act was amended in 2010 to expand the program to additional school districts; accordingly, N.J.A.C. 6A:12 was amended in 2012. Pursuant to N.J.S.A. 52:14B-5.1, the rules were scheduled to expire on December 21, 2016. As the agency submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date is extended 180 days to June 19, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The choice program has been in operation for six years in its expanded form and has experienced tremendous growth in the number of participating school districts and student enrollments. The choice program has been successful in achieving its purpose: to increase options and flexibility for parents and students in selecting a school that best meets the needs of each student, thereby improving educational opportunities for New Jersey citizens.

The Department proposes at this time to readopt the chapter without amendment to continue the rules. The Department is continuing to assess the efficiency of the program and after a thorough review will propose any needed amendments.

The following Summary provides an overview of each subchapter and section.

Subchapter 1. General Provisions

N.J.A.C. 6A:12-1.1 Purpose

This section establishes the chapter's purpose, which is to provide students and parents with options and flexibility in selecting a school that best meets the needs of each student.

N.J.A.C. 6A:12-1.2 Scope

The section establishes the chapter's scope, which explains school district eligibility to participate in the Interdistrict Public School Choice program, prohibits choice districts from maintaining a tuition program and a choice program in the same grade levels open to choice students, and allows school districts in sending/receiving relationships to participate in the choice program, unless otherwise legally prohibited.

N.J.A.C. 6A:12-1.3 Definitions

The section defines terms used throughout the chapter.

Subchapter 2. Choice Program Eligibility Criteria

The subchapter establishes the eligibility criteria for school district and student participation in the choice program.

N.J.A.C. 6A:12-2.1 Eligibility criteria for district boards of education

The section prescribes the eligibility criteria for school districts and students that seek to participate in the choice program.

N.J.A.C. 6A:12-2.2 Eligibility criteria for students

This section establishes eligibility criteria for students interested in applying to attend a choice district.

Subchapter 3. Choice District Application Procedures

This subchapter establishes the application process for a district board of education interested in applying to become a choice district.

N.J.A.C. 6A:12-3.1 Choice program application procedures for a district board of education

The section requires a school district to complete a choice program application and submit it pursuant to N.J.S.A. 18A:36B-17.

Subchapter 4. Choice Student Admissions

This subchapter provides the rules governing the admissions of choice students.

N.J.A.C. 6A:12-4.1 Sending district procedures

The section provides the procedures for calculation of a sending district's enrollment, for admissions lotteries, and for a sending district to limit the number of students participating in the choice program through the adoption of a resolution. The section also prohibits a sending district from restricting the participation of students in the choice program, if the students provide written notice of intent to apply to a specialized educational program that is offered by the choice district and not by the sending district.

N.J.A.C. 6A:12-4.2 Choice district procedures for students meeting the eligibility requirements

The section requires choice districts to admit choice students on a space-available basis. The section also prohibits choice districts from imposing admission criteria upon prospective choice students other than the statutory criteria. The section further allows choice districts to give enrollment preference to siblings of enrolled students, and requires a choice district to hold a public lottery if it receives more applications than available spaces.

N.J.A.C. 6A:12-4.3 Choice student application procedures

The section requires the Commissioner to establish a student application timeline each year by September 1. The section further requires the choice district to provide to the Department electronic notification of the number of students who enroll and requires the notification to be made within five business days of the due date in the Commissioner-established timeline. The section also requires the choice district to provide to each sending district board of education written notification of each enrollment notice from a student who is a resident of the sending district and requires the notification to be made within 10 days of the student application due date in the Commissioner-established timeline. Lastly, the section allows a choice student to seek, from the Commissioner, by a showing of good cause a waiver of the student application deadlines.

N.J.A.C. 6A:12-4.4 Choice district procedures for students not meeting eligibility requirements

The section allows a choice district to fill its seats for the choice program with students who do not meet the eligibility requirements, if the choice district already has exhausted the list of applicants who meet the eligibility requirements and the waiting list. The section further allows choice districts to accept applications from public school students who do not meet the eligibility requirements and/or nonpublic school students up until the Commissioner-set deadline. The section also requires a choice district to send a letter with required information to the student's parent when the choice district receives an application from a public school student who does not meet the eligibility requirements and/or a nonpublic school student.

Subchapter 5. Choice Student Post Enrollment Policies

This subchapter provides the rules regarding choice students once they have enrolled in a choice district.

N.J.A.C. 6A:12-5.1 Choice student enrollment

The section allows choice students to remain enrolled in a choice district without submitting annual or periodic applications. The section also obligates a choice district to retain an accepted choice student until graduation or the choice student voluntarily withdraws, even if the choice program is terminated in the choice district or Statewide. The section further allows a student who resides in a choice district and moves during the school year to remain in the choice district until the end of the school year and also allows the student to apply to the choice program as a funded student for the next school year.

Subchapter 6. Appeals

This subchapter establishes the rules governing appeals to the Commissioner.

N.J.A.C. 6A:12-6.1 Appeals from Commissioner determinations

This section allows an eligible choice district to appeal a determination by the Commissioner not to grant an eligible district's application for participation in the choice program according to N.J.A.C. 6A:4, Appeals.

N.J.A.C. 6A:12-6.2 Appeals from denial of enrollment

The section allows a parent or legal guardian to appeal, to the Commissioner, the denial of a choice student application for enrollment in a choice district in accordance with N.J.A.C. 6A:3, Controversies and Disputes.

Subchapter 7. Administrative Responsibilities of Choice Districts

This subchapter establishes the administrative responsibilities of choice districts.

N.J.A.C. 6A:12-7.1 General provisions

The section requires choice districts to accept all credits toward graduation awarded by another district board of education for each accepted choice student and to award a diploma to a choice student if he or she meets the graduation requirements of the choice district and the State. The section also requires choice districts to establish and maintain a parent information center and to file reports with the Department at the end of each application cycle that include demographic and student participation information, fiscal and programmatic information, and updates on the number of available openings.

Subchapter 8. Transportation

This subchapter governs transportation of students enrolled in the choice program.

N.J.A.C. 6A:12-8.1 Student transportation

The section makes the sending district responsible for transportation of enrolled choice students who are eligible for transportation services both to and from the choice school in which the student is accepted. The section also requires sending districts to provide transportation or aid in lieu of transportation in accordance with N.J.S.A. 18A:36A-13 and N.J.A.C. 6A:27-4.

Subchapter 9. Funding

This subchapter makes provision for funding of students participating in the choice program.

N.J.A.C. 6A:12-9.1 General provisions

The section stipulates choice students qualify for State aid pursuant to N.J.S.A. 18A:36B-14 et seq. and the sending district will receive transportation aid pursuant to N.J.A.C. 6A:12-9.1. The section also requires the sending district to maintain fiscal responsibility for any choice student enrolled in or determined to require a private day or residential school, except the choice district will be required to contribute State aid received for the student and the sending district will be responsible for the balance.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Interdistrict Public School Choice Program has proven to be beneficial for choice districts, choice students, and their parents. In 2016-2017, there are 131 operating choice districts serving 5,200 students. The choice students benefit from attending a school district with rigorous academics and a culture that better meets their individual needs. In addition, students who reside in choice districts, their parents, and their communities have benefited from many of the following: innovative programs; expansion of opportunities in STEM, the arts, and career-oriented programs; and enrichment of the school community through the addition of students from different backgrounds and with experiences different from those of the choice districts' resident students.

Economic Impact

The rules proposed for readoption provide economic benefits to the school districts accepting out-of-district students through the Interdistrict Public School Choice Program. For each enrolled choice student, the choice district receives choice aid equal to the per-pupil amount paid by local property tax dollars, plus the amount of State aid attributable to the choice student.

Federal Standards Statement

The rules proposed for readoption do not exceed Federal standards as there are no Federal laws or regulations that impact the choice program.

Jobs Impact

The Department does not expect the rules proposed for readoption will have an impact on the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not required because the rules proposed for readoption do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act at N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption affect public school districts that voluntarily participate in the Interdistrict School Choice Program and sending school districts.

Housing Affordability Impact Analysis

The rules proposed for readoption will have an insignificant impact on the affordability of housing in New Jersey. There is an extreme unlikelihood the rules proposed for readoption would evoke a change in the average costs associated with housing because the rules govern affected school districts that voluntarily participate in the Interdistrict School Choice Program and sending school districts.

Smart Growth Development Impact Analysis

The rules proposed for readoption will have an insignificant impact on smart growth. There is an extreme unlikelihood the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules govern school districts that voluntarily participate in the Interdistrict School Choice Program and sending districts.

Full text of the rules proposed for readoption follows:

N.J.A.C. 6A:12, INTERDISTRICT PUBLIC SCHOOL CHOICE

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CHAPTER 12. INTERDISTRICT PUBLIC SCHOOL CHOICE

SUBCHAPTER 1. GENERAL PROVISIONS

6A:12-1.1 Purpose

The purpose of this chapter is to establish the rules for the Interdistrict Public School Choice Program (choice program) in the Department of Education (Department) as provided for in N.J.S.A. 18A:36B-14 et seq. The choice program is necessary to increase options and flexibility for parents and students in selecting a school that best meets the needs of each student, thereby improving educational opportunities for New Jersey citizens. The choice program has increased the degree to which the education system is responsive to parents and students. It has also effected systemic improvements such as enhancing academic achievement and improving efficiency through a voluntary redistribution of students from overcrowded to under-enrolled school districts. Ultimately, the choice program can improve the quality of public school education in New Jersey by creating a healthy competition among school districts.

6A:12-1.2 Scope

- (a) Any school district in the State established pursuant to Chapter 8 or Chapter 13 of Title 18A of the New Jersey Statutes will be eligible to apply to become a choice district. A choice district may accept non-resident students into an educational program in the choice district at the expense of the State.
- (b) District boards of education may choose to apply to participate in the choice program as choice districts by receiving choice students pursuant to this chapter.

- (c) District boards of education may not maintain at the same time both a tuition program pursuant to N.J.S.A. 18A:38-3 and a choice program in the grade levels that the school district has made available to choice students.
- (d) District boards of education currently in a sending/receiving relationship are eligible to participate in the choice program unless otherwise legally prohibited.

6A:12-1.3 Definitions

The following words and terms, as used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Choice district" means a public school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes that is authorized under the Interdistrict Public School Choice Program to open a school or schools to students from a sending district.

"Choice program" means the Interdistrict Public School Choice Program authorized in N.J.S.A. 18A:36B-14 et seq.

"Choice student" means an out-of-district student who is accepted into a choice district.

"Non-public school student" means any student who is obtaining academic instruction outside of a public school at the time of his or her application to the choice district.

"Sending district" means the choice student's district of residence, charter school, or any school the student is required by law to attend.

SUBCHAPTER 2. CHOICE PROGRAM ELIGIBILITY CRITERIA

6A:12-2.1 Eligibility criteria for district boards of education

A district board of education of a school district established pursuant to Chapter 8 or Chapter 13 of Title 18A of the New Jersey Statutes is eligible to participate in the choice program if it has classroom space available, completes an application form provided by the Department pursuant to this chapter, and receives approval from the Commissioner to participate.

6A:12-2.2 Eligibility criteria for students

- (a) To be eligible to participate in the program, a student shall be enrolled at the time of application in grades preschool through 12 in a public school of the sending district and have attended school in the sending district for at least one full year immediately preceding enrollment in a choice district including time spent at any school that a student in a particular district of residence is required by law to attend.
 - 1. If a student attends public school in his or her district of residence and is counted in that district's October Application for State School Aid and the student's family moves during the school year and the student attends public school in his or her new district of residence for the remainder of the school year, the student shall have satisfied the one-year eligibility requirement for application to the school choice program.
 - 2. The one-year requirement shall not apply to a student applying to enroll in kindergarten in a choice district if that student already has a sibling enrolled in and attending the choice district and if the district of residence of that student does not offer a public pre-school program.

- (b) A public school student who does not meet the eligibility requirements found in (a) above or a non-public school student may nonetheless apply to enroll pursuant to N.J.S.A. 18A:36B-20.a. If a choice district allows for non-public school student enrollment, it may not make distinctions between such students on the basis of where they receive this academic instruction.
- (c) Students residing out of State may not participate in the choice program.

SUBCHAPTER 3. CHOICE DISTRICT APPLICATION PROCEDURES

6A:12-3.1 Choice program application procedures for a district board of education

An eligible applicant for a choice district shall complete an Interdistrict Public School Choice Program application, which shall be made available by the Department and which shall be submitted pursuant to N.J.S.A. 18A:36B-17.

6A:12-3.2 (Reserved)

SUBCHAPTER 4. CHOICE STUDENT ADMISSIONS

6A:12-4.1 Sending district procedures

- (a) A sending district may not restrict the participation of its students in the choice program where the district's students provide written notice of intent to apply to a specialized educational program that is offered by the choice district and not offered in the sending district.

- (b) The calculation of the enrollment of a sending district shall be based on the enrollment count as reported on the Application for State School Aid in October preceding the school year during which the restriction on enrollment shall be applicable.
1. Students from the sending district who are already enrolled in and attending a school choice program shall not be included in the newly calculated number of students eligible to attend a school choice district.
 2. When the multiplication of the grade level enrollment by the percentage established in the sending district's resolution adopted pursuant to N.J.S.A. 18A:36B-21.a(1) results in a number with a decimal, the number will be rounded to the next whole number.
 3. The sending district's resolution restricting its students' participation may not be applied to the final grade level available in the sending district.
- (c) Where a district board of education of a sending district has adopted a resolution pursuant to N.J.S.A. 18A:36B-21.a(1) to impose a limit on the number of its students participating in the choice program pursuant to this subsection, and when the student notices of intention to participate in the choice program exceed that limit, the sending district shall:
1. Hold a public lottery to determine the selection of students for participation in the choice program;
 2. Notify the parent or guardian of every student who has submitted notice of intent to participate in the choice program of the date and time of the lottery;
 3. Assign a number to each student participating in the lottery and notify the parent or guardian of the number assigned to their child(ren); and
 4. Develop a waiting list based on the lottery.
- (d) Where a district board of education of a sending district has adopted a resolution to impose a limit on the number of its students participating in the choice program pursuant to this subsection, and when the student notices of intention to participate in the choice

program exceed that limit, before conducting the lottery, the sending district may give preference to siblings of its resident students already enrolled in and attending the choice district.

1. In the event that the sending district elects to give preference to siblings of its resident students already enrolled in and attending the choice district and there are more sibling applicants than there are available spaces, then the sending district shall conduct a lottery first for the siblings only to determine the selection of students for participation and for placement on the waiting list.
 2. In the event that the sending district elects to give preference to siblings of its resident students already enrolled in and attending the choice district and there are no spaces available after granting permission to participate in the choice program to siblings of resident students already enrolled in and attending the choice district, then the sending districts shall conduct a lottery for the remaining applicants to assign them a place on the waiting list.
- (e) Prior to any lottery that may be held according to this section, the sending district shall verify that the student is enrolled in the sending district and was reported on the Application for State School Aid in October of the current school year.
- (f) Prior to any lottery that may be held according to this section, the sending district shall notify the applicants of the date and time of such lottery.
- (g) Any lottery held according to this section must be held prior to the deadline set by the Commissioner for written notification to the parent that the student is eligible to participate in the school choice program.

6A:12-4.2 Choice district procedures for students meeting the eligibility requirements

- (a) Choice districts shall admit choice students on a space available basis.

1. A district board of education shall not prevent students from participating in the school choice program.
2. A choice district may not impose admission criteria upon prospective choice program students other than those permitted by statute.
3. A choice district may give preference for enrollment to siblings of enrolled students.
4. When a choice district receives more applications than there are spaces available, the choice district shall hold a public lottery to determine the selection of students for participation in the choice program.
 - i. The choice district shall develop a waiting list based on the lottery.
 - ii. The choice district shall notify the parent or guardian of every student who has submitted an application to participate in the choice program of the date and time of the lottery.
 - iii. The choice district shall assign a number to each student participating in the lottery and shall notify the parent or guardian of the number assigned to their child(ren).
 - iv. Before conducting the lottery, the choice district may give preference to siblings of students already enrolled in and attending the choice district.
 - (1) In the event that the choice district elects to give preference to siblings of students already enrolled in and attending the choice district and there are no spaces available after granting permission to participate in the choice program to siblings of students already enrolled in and attending the choice district, then the choice district shall conduct a lottery first for the siblings only to determine the selection of students for participation and placement on the waiting list.

- (2) In the event that the choice district elects to give preference to siblings of students already enrolled in and attending the choice district and there are no spaces available after granting permission to participate in the choice program to siblings of students already enrolled in and attending the choice district, then the choice district shall conduct a lottery first for the remaining applicants to assign them a place on the waiting list.

6A:12-4.3 Choice student application procedures

- (a) The Commissioner shall establish a student application timeline each year no later than September 1.
- (b) Within five business days of the due date set by the Commissioner pursuant to the timeline in (a) above, the choice district shall provide to the Department electronic notification of the number of students who enroll.
- (c) The choice district shall provide written notification of receipt of each notice of enrollment to each sending district's board of education within 10 days of the due date for receipt of such notice of enrollment from a choice student resident in that sending district.
- (d) A choice student applicant may seek from the Commissioner by a showing of good cause a waiver of the student application deadlines established in the timeline in (a) above.

6A:12-4.4 Choice district procedures for students not meeting eligibility requirements

- (a) If seats remain available in a choice district after exhausting the list of applicants who meet the requirements of N.J.A.C. 6A:12-2.2(a), including those on any waiting list that has been established through the application process, then the choice district may elect to

fill the seats with public school students who do not meet the requirements of N.J.A.C.

6A:12-2.2(a), and with non-public school students.

- (b) Choice districts may accept applications from public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and/or non-public school students up until the deadline set by the Commissioner.
- (c) Upon the receipt of an application from a public school student who does not meet the requirements of N.J.A.C. 6A:12-2.2(a) or a non-public school student, the choice district shall send a letter to the parent of the student including the following information:
 - 1. Whether the choice district will consider public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and non-public school students for admission to the district. If the choice district has not yet decided, inform the parents of when the decision is expected to be made;
 - 2. That public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and non-public school students will not be considered for admission until the choice district has conducted the application cycle and has exhausted its waiting list of students who meet the requirements of N.J.A.C. 6A:12-2.2(a) for the grade level to which they have applied;
 - 3. That the choice district may need to conduct a lottery to select the students to be offered admission to the choice district depending on the seats available and the number of applications received from public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and/or non-public school students; and
 - 4. That the parents of those public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and non-public school students will be fully informed of the lottery process in the event that a lottery is required, the date it will be held, and what number has been assigned to the applicant.

SUBCHAPTER 5. CHOICE STUDENT POST ENROLLMENT POLICIES

6A:12-5.1 Choice student enrollment

- (a) Once enrolled in a choice district, the choice student may remain enrolled and is not required to submit annual or periodic applications.
- (b) Upon acceptance of a choice student, the choice district is obligated to retain the choice student until graduation or until the choice student voluntarily withdraws.
- (c) In the event of termination of the choice program in that district or Statewide, any student enrolled in that choice district shall be entitled to remain enrolled in that district until graduation.
- (d) In the event that a public school student who is currently a choice student attending school in a choice district moves to another district, that public student is eligible to remain in the choice district as a choice student without application.
- (e) A resident student of a choice district who moves during the school year may be allowed to remain in the choice district until the end of the school year. The student may apply to the choice program as a funded student for the next school year. If the student moves after the application deadline or otherwise is unable to receive funding as a choice student in the school district for the subsequent school year, the choice school district may enroll the student as an unfunded choice student in that year, and automatically convert the student's enrollment to a funded choice student if he or she remains in the choice program.

SUBCHAPTER 6. APPEALS

6A:12-6.1 Appeals from Commissioner determinations

An appeal of any determination by the Commissioner not to grant an application for participation in the choice program may be filed by an eligible choice district applicant according to N.J.A.C. 6A:4.

6A:12-6.2 Appeals from denial of enrollment

An appeal of any denial of a choice student applicant for enrollment in a choice district may be filed by the parent or legal guardian with the Commissioner in accordance with N.J.A.C. 6A:3.

SUBCHAPTER 7. ADMINISTRATIVE RESPONSIBILITIES OF CHOICE DISTRICTS

6A:12-7.1 General provisions

- (a) Choice districts shall accept all credits toward graduation that were awarded by another district board of education for each choice student it accepts.
 - 1. Choice districts shall award a diploma to a choice student participating in the program if that student meets the graduation requirements of the choice district and of the State of New Jersey.
- (b) A choice district shall establish and maintain a parent information center.
 - 1. The center shall collect and disseminate information about participating programs and schools, and shall assist parents and legal guardians in submitting applications for enrollment of students in an appropriate program and school.
 - 2. The information about participating programs and schools shall be posted on the choice district's website.

- (c) A choice district shall file reports with the Department at the end of each application cycle. A choice district's reports shall include demographic and student participation information, fiscal and programmatic information, and updates on the number of available openings.

SUBCHAPTER 8. TRANSPORTATION

6A:12-8.1 Student transportation

Each sending district shall have the responsibility for the transportation of enrolled choice students who are eligible for transportation services both to and from the choice school in which that student is accepted. Each sending district shall provide transportation or aid in lieu of transportation in accordance with N.J.S.A. 18A:36A-13 and N.J.A.C. 6A:27-4.

SUBCHAPTER 9. FUNDING

6A:12-9.1 General provisions

- (a) Choice students participating in this program shall qualify for State aid pursuant to N.J.S.A. 18A:36B-14 et seq. The sending district will receive transportation aid pursuant to N.J.A.C. 6A:12-8.1.
- (b) The sending district shall maintain fiscal responsibility for any choice student enrolled in or determined to require a private day or residential school, except that the choice district will be required to contribute any State aid received for such a student and the sending district will be responsible for the balance.

SUBCHAPTER 10. (RESERVED)